

## **LABOR RELATIONS**

**Effective Date: 4/12/90**

### **I. PURPOSE**

The purpose of this policy is to:

- A. affirm the commitment of the Department of Services for Children, Youth and Their Families to positive labor relations through true collective bargaining, problem solving, conflict resolution
- B. promote harmonious labor relations, cooperation and understanding between the Department and its exclusive bargaining representatives, herein referred to as the "Union".

The policy establishes a uniform standard of guidance for Departmental managers and employees in defining roles and expectations in the interest of effective labor relations.

The Department Management recognizes that the effective operation of programs and services to clients depends upon an atmosphere of cooperation between management and labor. This policy sets forward the framework for such a relationship. This policy, along with State Merit Rules and union Contracts, constitute the guidelines for labor relations and should be used as a tool for effective understanding and cooperation. It is the intent of the Department of Services to Children, Youth and Their Families Management to work cooperatively with staff and to promote harmonious working relationships. This policy sets forth the formal mechanism for interaction. It stresses, however, the desire to work through problems in an informal and cooperative manner.

### **II. POLICY**

The Department of Services for Children, Youth and Their Families shall be guided by the Rules for a Merit System of Personnel Administration (29 Delaware Code, Chapter 59) in the determination of items which are non-negotiable at the departmental/agency level in the collective bargaining

process. Non-negotiable items are: position classification, pay and fringe benefits, examination, promotions, eligibility lists for appointment and promotion, rejection of candidates, appointment, transfer between agencies or where change is made in classification or pay grade, lay-off by one agency and re-employment by another, paid leave, veteran's preference or resident's preference. The Merit Rules take precedence in those areas cited above. In the event a subject is covered in whole or in part by a collective bargaining agreement, 29 Del. C. 5938 (d), provides that the Merit Rules shall not apply.

Technical assistance and guidance to Division Directors, managers and supervisors relative to labor relations and collective bargaining shall be provided by the Departmental Personnel Administrator either directly or through Divisional Personnel Officers. He/she shall be the primary Departmental contact and liaison with the State Labor Relations Services of the Office of State Personnel. The Personnel Administrator shall be guided/assisted by the Deputy Director for Labor Relations of the Office of State Personnel in matters related to all aspects of collective bargaining and union contract administration as provided for by Governor Castle's Executive Order #13.

### **III. PROCEDURES**

#### **A. Contract Administration**

Each Division shall be responsible for the effective implementation and monitoring of the collective bargaining agreement(s) within their jurisdiction. Such agreements have been consummated in good faith and managers shall monitor them to ensure that the terms of the agreement are fulfilled. Divisional Personnel Officers shall provide technical assistance and contract language interpretation to facilitate the process.

#### **B. Grievance Procedure/Processing**

The grievance procedure is the mainstay of any collective bargaining agreement; therefore, Departmental staff shall be

committed to maintaining the integrity of the procedure in the processing of properly filed grievances.

1. To the extent possible, informal discussion and problem solving with union officials shall be pursued by agency managers as a prelude to the formal grievance process. Managers are encouraged to assume a proactive approach to problem areas in an attempt to resolve disputes.
2. Every effort shall be made by management representatives to resolve grievances at the lowest level of the grievance procedure. Divisional Personnel Officers shall be consulted to assist in possible remedies.
3. Grievance hearings/responses shall be scheduled/issued in accordance with the time frames prescribed by the applicable collective bargaining agreement. A provision is incorporated within each agreement to extend the time limitation by mutual agreement but should only be used under unusual circumstances.
4. Management representatives who conduct grievance hearings shall listen, ask questions, investigate the facts and render a decision based upon factual information.
5. All employees shall have unobstructed use of the applicable grievance procedure, whether through the Merit System or the collective bargaining agreement. Appropriate use of the grievance procedure shall not lead to reprisal or prejudice toward employees.

C. Labor/Management Meetings

Division Directors, or their designees, shall conduct periodic meetings with local Union officials for the purpose of discussing matters of mutual interest to the parties. Such a process is designed to foster internal communication and to provide for an early warning system of potential problem areas within the organization. These

meetings shall have agendas prepared by either management or Union representatives and shall be convened at least quarterly. If advance agendas are required by the collective bargaining agreement and an agenda is not submitted, a meeting need not take place. Grievances in process shall not be a topic of discussion at such meetings.

D. Right of Representation

Collective bargaining agreements within the Department of Services for Children, Youth and Their Families may control the employee's right of Union representation at such proceedings as contract negotiations, grievance hearings, arbitration, State Personnel Commission hearings, disciplinary interviews, and the like. Unless otherwise provided for in a collective bargaining agreement:

1. The right of union representation at meetings with management does not apply to normal employer-employee conversation, such as giving of instructions, assignment, training or needed correction of work technique, performance reviews, etc. (NRLB V. Weingarten, 1975.)
2. Should the employee in these situations request a union representative, the supervisor should explain that such rights do not apply. Insistence on representation is tantamount to insubordination, an infraction that can lead to disciplinary action, and the employee should be advised accordingly. (SLRS #7, Oct. 1988.)
3. Divisional Personnel Officers and/or the Departmental Personnel Administrator shall be consulted for those areas less clearly defined.

E. Strikes/Work Stoppages

Collective bargaining agreements within the Department of Services to Children, Youth and Their Families prohibit employees from participating in a strike, stoppage of work, slowdown, or any direct or indirect interference with the Agency's operation.

Employees not covered by a collective bargaining agreement are also prohibited from participating in an illegal job action, pursuant to the Delaware Code.

1. Departmental employees are expected to report for work and remain at work pursuant to their assigned schedule unless leave has been authorized by the supervisor or manager in advance.
2. Participation in an illegal job action as described above, including a "sick out," will be viewed as a violation of this policy and the collective bargaining agreement and may result in disciplinary action.
3. Normal leave approval procedures may be modified by the agency to ensure that an illegal job action does not impair the operation or service delivery to clients.
4. The threat of an impending job action may result in the cancellation and/or rescinding of leave approval for employees in the affected work sites, thereby necessitating their immediate return to work as assigned or the prohibition against their departure from work using authorized leave.

## **II. RESPONSIBILITIES**

In addition to the various responsibilities delineated within this policy, the following represents Departmental expectations for the respective positions listed below:

### **A. Division Directors/Deputies shall:**

1. Promote an atmosphere of information sharing and communications within their Division in the pursuit of effective labor relations.
2. Counsel and encourage subordinate management staff to administer the Merit Rules and collective bargaining agreement

equitably and resolve disputes at the lowest possible level of the organization.

3. Ensure that management staff within their jurisdiction are trained in the requirements of this policy.
4. Confer with Divisional Personnel Officers regarding interpretation and intent of Merit Rules, union contract language, grievance processing and where appropriate grievance decisions. Final decisions are made by the Division Director based on Merit Rules, Delaware Code, policy, and the facts of the situation.
5. Advise the Cabinet Secretary, and the Director of the Division of Management Services or Departmental Personnel Administrator of potential problem areas relative to labor relations and/or collective bargaining.
6. Serve as the Secretary's designee and management representative at grievance hearings conducted at the Cabinet level.

B. Departmental Personnel Administrator shall:

1. Provide advice, guidance, and technical assistance to the Cabinet Secretary, Division Directors, Divisional Personnel Officers and agency managers in all aspects of labor relations, contract administration and collective bargaining within the Department.
2. Function as the Departmental spokesperson and provide primary liaison with the State Labor Relations Service of the Office of State Personnel.
3. Represent the Department in proceedings involving arbitration, State Personnel Commission hearings and hearings before the Governor's Council on Labor.

4. Serve as technical advisor to management representatives conducting grievance hearings at the Cabinet Secretary's level.
5. Serve as Departmental spokesperson for collective bargaining within the Department.
6. Convene and participate, as appropriate, in Labor/Management meetings on a Department-wide basis to promote uniform labor practices.
7. Assume a proactive approach to Departmental labor relations to facilitate early detection and resolution of disputes.
8. Respond promptly when problems occur to develop and implement appropriate strategies for resolution.
9. Develop and promulgate procedures as required to implement the provisions of this policy. Train staff in their use.

C. Divisional Personnel Officers shall:

1. Provide guidance and technical assistance to Division Directors, Deputies and agency managers/supervisors in all aspects of labor relations, contract administration and collective bargaining within their respective Division.
2. Provide primary liaison with Departmental Personnel Administrator in all aspects of labor relations within their organization. Advise Personnel Administrator of potential problem areas and/or disputes.
3. Respond promptly when problems occur to develop and implement appropriate strategies for resolution. Consult with the Personnel Administrator as appropriate.
4. Attend grievance hearings, and serve as technical advisor to management representatives conducting those hearings at the Division Director's level.

5. Participate in Labor/Management meetings at the Divisional level, and when assigned, at the Departmental level.
6. Assume a proactive approach to Divisional labor relations to facilitate early detection and resolution of disputes.

D. Administrators/Supervisors shall:

1. Consult with Divisional Personnel Officers in all aspects of labor relations, contract administration and collective bargaining.
2. Promote an atmosphere of information sharing and communication within their unit in the pursuit of effective labor relations.
3. Ensure the uniform application of the Merit Rules and collective bargaining agreement within their unit or jurisdiction.
4. Endeavor, through informal discussion and problem solving to resolve differences/disputes prior to the formal grievance stage.
5. Assume a proactive, positive approach to labor/employee relations. Provide early notification to superiors of potential problem areas and labor unrest.
6. Ensure that employees have unobstructed use of the applicable grievance procedure, whether through the Merit System or the collective bargaining agreement.
7. Ensure that staff are knowledgeable of the provisions contained within this policy as well as the agency expectation for their reporting to work and performing assigned responsibilities.
8. Schedule and authorize leave in accordance with the operational requirements of their unit, ensuring adequate coverage at all times.



E. Departmental Employees shall:

1. Report for work on time and remain at work pursuant to their assigned schedule unless leave has been authorized by their supervisor or manager in advance.
2. Request authorized leave in advance with an appreciation for the operational requirements of their respective unit.
3. Not participate in any illegal job action, "sick out", strike, stoppage of work, slowdown or any direct or indirect interference with the Agency's operation. Such activities will result in disciplinary action, up to and including dismissal.
4. Become familiar with the provisions of this policy and be guided accordingly.
5. Seek to resolve problems at the lowest possible level of the organization.

F. Effective date:

1. This policy shall become effective upon signature.
2. If any part of this policy is in conflict with mandatory Federal or State Laws, including rules and regulations of the Merit System of Personnel Administration, that part shall be suspended and the appropriate mandatory provision shall prevail. The remainder of the policy shall not be affected thereby.